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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

ABDULRAHMAN EL BAHNASAWY,

Defendant.

-----x

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC# 47  
DATE FILED: 10/6/2017

16 CR 376 (RMB)

New York, N.Y.  
October 13, 2016  
2:30 p.m.

Before:

HON. RICHARD M. BERMAN,

District Judge

APPEARANCES

PREET BHARARA,

United States Attorney for the  
Southern District of New York

NEGAR TEKEEI

GEORGE TURNER

Assistant United States Attorney

CLAY HUBBARD KAMINSKY

SABRINA SHROFF

Attorneys for Defendant

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1 (Case called)

2 THE COURT: If it's okay with all of you, I think we  
3 should start by Ms. Murray swearing in Mr. El Bahnasawy.

4 (Defendant sworn)

5 THE COURT: Mr. El Bahnasawy, you understand that  
6 having been sworn, and, answering under oath, your answers to  
7 my questions must be truthful and could subject you to the  
8 criminal penalties of perjury or of making false statement if  
9 you do not answer truthfully?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you realize that?

12 THE DEFENDANT: Yes.

13 THE COURT: There are a series of documents that we  
14 have here. First of all, maybe we should start with the  
15 document called "Notice Of Intent To File An Information."  
16 It's dated October 13, and it's signed by the government and  
17 Ms. Shroff and Mr. El Bahnasawy. I believe -- or is it just  
18 you, Ms. Shroff, on behalf of Mr. El Bahnasawy? Is that both  
19 of your signatures?

20 MS. SHROFF: I think it's just counsel's signature.

21 THE COURT: Okay.

22 I'm going to hand it back to you. Is it both of you?  
23 Is that intended to be both defense counsel?

24 MS. SHROFF: Yes, your Honor.

25 THE COURT: I gotcha.

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1           Then I have a document that is signed by  
2           Mr. El Bahnasawy and counsel. That is a document called  
3           "Waiver Of Indictment." And in that document, Mr. El Bahnasawy  
4           waives his right to be prosecuted pursuant to an indictment and  
5           consents to proceeding by information instead of indictment.

6           Is that your understanding, Ms. Shroff, of that  
7           document, waiver of indictment?

8           MS. SHROFF: Yes, your Honor.

9           THE COURT: Did you understand and discuss that,  
10          Mr. El Bahnasawy, with Ms. Shroff before you signed it?

11          THE DEFENDANT: With Clay.

12          THE COURT: Could you for the record state your full  
13          name.

14          MR. KAMINSKY: Yes, your Honor. Clay Kaminsky.

15          THE COURT: And, Clay Kaminsky, you are co-counsel  
16          with Ms. Shroff to Mr. El Bahnasawy?

17          MR. KAMINSKY: That's correct, your Honor; also with  
18          the Federal Defenders.

19          THE COURT: Great.

20          And you understand the implications, Mr. El Bahnasawy,  
21          do you, having discussed that with Mr. Kaminsky, the  
22          implications of waiving your right to an indictment?

23          THE DEFENDANT: Yeah, I -- which one is that?

24          THE COURT: I've got to hear you.

25          THE DEFENDANT: Oh, yes, yes.

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1 THE COURT: You do? Okay.

2 Then the third document that I have is called "Sealed  
3 Superseding Information." I want to make sure, first of all,  
4 that counsel has received that information.

5 MS. SHROFF: We have, your Honor.

6 THE COURT: Did you discuss it with Mr. El Bahnasawy?

7 MS. SHROFF: We did, your Honor.

8 THE COURT: Did you want me to read it at this time?

9 MS. SHROFF: Mr. El Bahnasawy does not wish it to be  
10 read out loud to him in court.

11 THE COURT: In terms of a plea, I think that what  
12 we're here about today indicates that Mr. El Bahnasawy wishes  
13 to enter a plea of guilty, is that right, to that document?

14 THE DEFENDANT: Yes.

15 THE COURT: And, Ms. Shroff, could you confirm that?

16 MS. SHROFF: I do confirm that, your Honor.

17 Mr. El Bahnasawy has informed us that he wishes to withdraw his  
18 previously entered plea of not guilty and enter a plea of  
19 guilty

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21

22 THE COURT: Right. But just sort of technically, just  
23 with respect to the superseding information, there is no plea  
24 before today's plea of guilty; is that right?

25 MS. SHROFF: Not as to the superseding information,

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1 your Honor, just to the original indictment.

2 THE COURT: Right, okay.

3 Then the next document is, of course, the plea  
4 agreement. It's dated October 11, 2016, on the front page and  
5 appears to be signed and dated by Mr. El Bahnasawy and also  
6 counsel, Ms. Shroff and Mr. Kaminsky, yesterday, October 12,  
7 2016.

8 So, first, for counsel: Did you carefully review that  
9 plea agreement with Mr. El Bahnasawy before you all signed it  
10 and he signed it as well?

11 MS. SHROFF: Yes, your Honor.

12 THE COURT: And, Mr. El Bahnasawy, you went over that  
13 plea agreement carefully with your attorneys before you signed  
14 it yesterday?

15 THE DEFENDANT: Yes.

16 THE COURT: Then we have a document called "Advice Of  
17 Rights Form," which is a form that I use in connection with  
18 guilty pleas. This one is signed with today's date,  
19 October 13, both by co-defense counsel and Mr. El Bahnasawy.

20 So, Counsel, first, did you carefully go over the  
21 Advice of Rights Form, which advises people of some of the  
22 rights they will be giving up by pleading guilty, Ms. Shroff or  
23 Mr. Kaminsky?

24 MR. KAMINSKY: Yes, your Honor, I went over it with  
25 him.

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1 THE COURT: And, Mr. El Bahnasawy, you went over that  
2 form carefully with Mr. Kaminsky and/or Ms. Shroff before you  
3 signed it?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay.

6 So, it's clear from these preliminary questions that  
7 I've asked and these documents, which will be made court  
8 exhibits to today's proceeding, Ms. Shroff and Mr. Kaminsky,  
9 that Mr. El Bahnasawy wishes to enter a plea of guilty to the  
10 superseding information. Do I understand that correctly?

11 MS. SHROFF: Yes, your Honor.

12 THE COURT: Mr. El Bahnasawy, before I can accept that  
13 plea, which is happening in this proceeding, I'm going to ask  
14 you a series of questions to make sure and to be able to  
15 establish that you wish to plead guilty and that you do so  
16 voluntarily and knowingly, and because you are guilty, and also  
17 to establish that you know just what rights you'll be giving up  
18 by pleading guilty.

19 So, if you don't understand any of my questions or if  
20 at any time you wish to consult with counsel for any reason,  
21 please say so, and I will give you as much time as you need to  
22 consult with your attorneys, because it's essential to a valid  
23 plea that you understand each question before you answer it.  
24 Is that okay with you?

25 THE DEFENDANT: Yes.

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1 THE COURT: I'll just start by asking you again,  
2 Mr. El Bahnasawy, is it your wish and intention to enter a  
3 guilty plea this afternoon in this proceeding to the  
4 superseding information?

5 THE DEFENDANT: Yes, it is.

6 THE COURT: Could you tell us your full name.

7 THE DEFENDANT: Abdulrahman El Bahnasawy.

8 THE COURT: And you are how old?

9 THE DEFENDANT: Eighteen.

10 THE COURT: And you are a citizen of what country?

11 THE DEFENDANT: Canada.

12 THE COURT: Were you born in Canada? I don't  
13 remember.

14 THE DEFENDANT: No, I'm born in Kuwait.

15 THE COURT: And you have lived in Canada for how long?

16 THE DEFENDANT: About ten or eleven years.

17 THE COURT: How far did you go in school?

18 THE DEFENDANT: Until grade 11.

19 THE COURT: Was that in Canada or in Kuwait?

20 THE DEFENDANT: From grade one was in Kuwait, Canada  
21 was -- like half was in Kuwait and half was in Canada, so grade  
22 one was in Kuwait, in Canada it was from grade two to eight,  
23 and then nine and ten was in Kuwait, and then I went back to  
24 Canada for 11 but I didn't finish 11.

25 THE COURT: I see, okay. So you went back and forth

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1 then?

2 THE DEFENDANT: Yes.

3 THE COURT: First, from Kuwait to Canada, and then  
4 from Canada to Kuwait, and then back from Kuwait to Canada?

5 THE DEFENDANT: Yes.

6 THE COURT: That's where your residence is now, it's  
7 Canadian?

8 THE DEFENDANT: Yes.

9 THE COURT: Is your family there as well?

10 THE DEFENDANT: Yes, it is.

11 THE COURT: Which consists of?

12 THE DEFENDANT: My dad, my mom, and my sister.

13 THE COURT: The three of them live in Canada?

14 THE DEFENDANT: Yes.

15 THE COURT: Are you now, or have you recently been,  
16 under the care of a medical doctor? I think we've discussed  
17 that in previous conferences.



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THE COURT: Have you taken any drugs or medicine or pills or drunk any alcoholic beverages in the past 24 hours?

THE DEFENDANT: No.

THE COURT: Anything that might affect your answers to my questions?

THE DEFENDANT: No.

THE COURT: Or your frame of mind here today in court?

THE DEFENDANT: No.

THE COURT: So, I asked this before but I'm going to ask again: How do you feel today physically?

THE DEFENDANT: I feel well.

THE COURT: And mentally?

THE DEFENDANT: Also well.

THE COURT: And you understand what is happening in this proceeding here in court today, do you?

THE DEFENDANT: Yes.

THE COURT: Here's a question for the lawyers: Do either of you -- that is to say, the government or the defense -- have any doubts or concerns as to Mr. El Bahnasawy's competence to plead at this time?

MR. TURNER: No, your Honor.

MS. SHROFF: No, your Honor.

THE COURT: Neither do I. Based on the record today,

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1 including Mr. El Bahnasawy's answers to my questions, his  
2 testimony, I find that he is competent to plead guilty.

3 Mr. El Bahnasawy, have you been given a full  
4 opportunity to discuss all aspects of this case with your  
5 attorneys?

6 THE DEFENDANT: Yes.

7 THE COURT: Including possible defenses that you might  
8 have to the charges in the superseding information to which you  
9 have offered to plead guilty?

10 THE DEFENDANT: Yes.

11 THE COURT: Are you fully satisfied with your  
12 counsel's representation of you?

13 THE DEFENDANT: Yes, I am.

14 THE COURT: That's Ms. Shroff and Mr. Kaminsky?

15 THE DEFENDANT: Yes.

16 THE COURT: Are you fully satisfied with the legal  
17 advice that they each have given you?

18 THE DEFENDANT: Yes, I am.

19 THE COURT: Ms. Shroff and Mr. Kaminsky?

20 THE DEFENDANT: Yes.

21 THE COURT: So, now I'm going to explain certain  
22 rights that you have and ask some questions about those.

23 First, since we have here what's called an  
24 information, we also had what's called a waiver of indictment  
25 written and I just want to make sure that you and counsel are

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1 waiving indictment. It's obviously clear from these documents  
2 but just so the record is clear, Ms. Shroff, you and your  
3 client are waiving indictment?

4 MS. SHROFF: We are, your Honor. We're proceeding by  
5 the information.

6 THE COURT: And, Mr. Kaminsky, you're onboard with  
7 that too?

8 MR. KAMINSKY: Yes, your Honor.

9 THE COURT: And, Mr. El Bahnasawy, is that your  
10 intention  
~~contention~~ here today?

11 THE DEFENDANT: Yes, it is.

12 THE COURT: And you realize that what that means is,  
13 simplifying somewhat, but by offering to plead guilty to an  
14 information, do you realize that you had the right to have the  
15 evidence in this case underlying the charges presented to a  
16 grand jury and to have those grand jurors decide whether there  
17 was probable cause that you should be charged? Do you realize  
18 that?

19 THE DEFENDANT: Yes, I do.

20 THE COURT: Do you realize that by signing this waiver  
21 of indictment, which you've done, you gave up the right and  
22 permitted the government to file this information based only on  
23 the signature of the United States Attorney?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand that you have the right

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1 to plead not guilty today if you wish?

2 THE DEFENDANT: Yes, I do.

3 THE COURT: Under the Constitution and laws of the  
4 United States, if you plead not guilty, you would be entitled  
5 to a speedy and public trial by a jury on the charges contained  
6 in the superseding information. Do you realize that?

7 THE DEFENDANT: Yes, I do.

8 THE COURT: If you decided to have a trial, at the  
9 trial you would be presumed to be innocent; the government  
10 would be required to prove that you were guilty by competent  
11 evidence and beyond a reasonable doubt before you could be  
12 found guilty.

13 THE DEFENDANT: Yes.

14 THE COURT: A jury would have to agree unanimously  
15 that you were guilty. Do you realize that?

16 THE DEFENDANT: Yes.

17 THE COURT: And you would not have to prove that you  
18 were innocent. Do you realize all of those rights?

19 THE DEFENDANT: Yes, I do.

20 THE COURT: Also, at a trial, if you decided to have  
21 one, and at every stage of your case, you would be entitled to  
22 be represented by counsel, as you are today, and have been  
23 throughout these proceedings. And if you could not afford  
24 counsel, one would be appointed at public expense to represent  
25 you. Do you realize that?

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1 THE DEFENDANT: Yes, I do.

2 THE COURT: Also, during a trial, if you decided to  
3 have one, the witnesses for the government would have to come  
4 to court and testify in your presence. Do you realize that?

5 THE DEFENDANT: Yes.

6 THE COURT: And your lawyers could cross-examine the  
7 witnesses for the government. Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: And they could object to evidence offered  
10 by the government. Do you realize that?

11 THE DEFENDANT: Yes.

12 THE COURT: And they could offer evidence and subpoena  
13 witnesses on your behalf. Do you realize that too?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: Also, at a trial, if you decided to have  
16 one, although you would have the right to testify if you chose  
17 to do so, you would also have the right not to testify, and no  
18 one, including particularly the jury, could draw any inference  
19 or suggestion of guilt from the fact that you did not testify,  
20 if that's what you elected to do. Do you realize that?

21 THE DEFENDANT: Yes.

22 THE COURT: Even now, this afternoon, as you are  
23 entering this guilty plea, you still have the right to change  
24 your mind and to plead not guilty and to go to trial on the  
25 charges contained in this superseding information. Do you

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1 understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: If you do plead guilty and if I accept  
4 your guilty plea, then you will give up your right to have a  
5 trial and the other rights that I have been discussing with  
6 you. Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: And there won't be any trial, there will  
9 no trial, but I'll still enter a judgment of guilty against  
10 you. Do you realize that?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: And I will thereafter -- not today,  
13 sometime in the future -- sentence you on the basis of your  
14 plea, after I have considered what we call a presentence  
15 investigation report, which will include what's called a  
16 sentencing guidelines analysis and whatever submissions that I  
17 may get from your attorneys and from the government. Do you  
18 understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: Some of these questions are a little bit  
21 repetitive but it's worth taking the time and going over them.

22 You have received a copy of the superseding  
23 information, which I mentioned earlier, which contains the  
24 charges against you; is that right?

25 THE DEFENDANT: Yes, yes, I did.

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1 THE COURT: And you discussed fully with your counsel  
2 the charges in this superseding information, to which you  
3 intend to plead guilty?

4 THE DEFENDANT: Yes.

5 THE COURT: Again, are you fully satisfied with  
6 Ms. Shroff and Mr. Kaminsky's legal representation of you?

7 THE DEFENDANT: Yes, I am.

8 THE COURT: Are you fully satisfied with the legal  
9 advice that they have given to you?

10 THE DEFENDANT: Yes.

11 THE COURT: So, now I'm going to briefly summarize the  
12 counts in this superseding information. I will then give  
13 counsel a chance to add to those summaries if they wish.

14 Count One may be characterized as charging him with a  
15 conspiracy to use a weapon of mass destruction. It says that  
16 from at least in or about early 2016, up to and including  
17 May 21, 2016, in the Southern District of New York and  
18 elsewhere; Mr. El Bahnasawy and others, acting without lawful  
19 authority, conspired to use a weapon of mass destruction, in  
20 particular, an explosive bomb and similar device, against  
21 persons and property within the United States.

22 In addition, within the United States, these features  
23 were part of that conspiracy: Use of the mail and facilities  
24 of interstate and foreign commerce, including mobile  
25 telephones, were used in furtherance of the offense charged in



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1 Count One; also, such property was used in an activity that  
2 affects interstate and foreign commerce, and a perpetrator  
3 involved in this conspiracy traveled in, and caused another to  
4 travel in, interstate and foreign commerce in furtherance of  
5 the conspiracy; and, fourth, the offense and the results of the  
6 offense would have affected interstate and foreign commerce.

7 So, that's the summary of Count One. If anybody  
8 wishes to add -- I should mention that the superseding  
9 information speaks for itself in its entirety. My efforts to  
10 summarize them are just that, efforts to summarize, but the  
11 superseding information in its entirety is incorporated into  
12 this proceeding. But if counsel for the government wants to  
13 add anything to Count One, I'm happy to hear you.

14 MR. TURNER: Your Honor, we are prepared, of course,  
15 to set forth the elements of each of the counts, which we --

16 THE COURT: That will come later.

17 MR. TURNER: At a later time?

18 Nothing to add to the Court's summary, your Honor.

19 THE COURT: How about Ms. Shroff?

20 MS. SHROFF: No, thank you.

21 THE COURT: So then let's move on to Count Two.

22 This is another conspiracy charge, a second  
23 conspiracy, and it's a conspiracy to commit acts of terrorism  
24 transcending national boundaries. It, in summary, charges  
25 that, from at least in or about early 2016 up to and including

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1 on or about May 21, 2016, in the Southern District of New York,  
2 the defendant, Mr. El Bahnasawy, and others conspired in an  
3 offense involving conduct transcending national boundaries.  
4 And they conspired to kill, maim, commit an assault resulting  
5 in serious bodily injury and assault with a dangerous weapon,  
6 persons within the United States and they conspired to create a  
7 substantial risk of serious bodily injury to another person by  
8 destroying and damaging a structure, conveyance and other real  
9 or personal property within the United States, in violation of  
10 18, U.S.C., Section 2332(a), which describes the use of a  
11 weapon of mass destruction, and also in violation of 18, U.S.C.  
12 Section 2332(f), which relates to bombing a place of public use  
13 and public transportation, facilities, and also involved in  
14 this second conspiracy, the mail and facilities of interstate  
15 and foreign commerce, including mobile telephones, which were  
16 used in furtherance of the offense and also the offense and the  
17 results of the offense would have affected interstate and  
18 foreign commerce.

19 So, that's Count Two. If the government would care to  
20 add to that summary, you're welcome to do so.

21 MR. TURNER: No, your Honor.

22 THE COURT: Or the defense?

23 MS. SHROFF: No, thank you.

24 THE COURT: Okay.

25 Count Three is another conspiracy. This one is a

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1 conspiracy to bomb a place of public use and public  
2 transportation system. It says that from in or about early  
3 2016 up to and including on or about May 21, in the Southern  
4 District of New York, the defendant, Mr. El Bahnasawy, and  
5 others did knowingly and unlawfully conspire -- by the way, the  
6 phrase "knowingly and unlawfully" modifies all of the  
7 conspiracies I'm talking about today -- they did knowingly and  
8 unlawfully conspire to deliver and detonate an explosive or  
9 other lethal device in a place of public use and a public  
10 transportation system with the intent to cause extensive  
11 destruction of such place and system and with the intent to  
12 cause death and serious bodily injury and where the destruction  
13 was likely to result in a major economic loss. And the offense  
14 took place in the United States, and a perpetrator is a  
15 national of another state, and the offense also took place  
16 outside the United States, and the perpetrator is found in the  
17 United States.

18 Would you like to comment or add to Count Three,  
19 starting with the government?

20 MR. TURNER: Nothing to add, your Honor.

21 THE COURT: Ms. Shroff?

22 MS. SHROFF: No, your Honor. Thank you.

23 THE COURT: Count Four is another conspiracy,  
24 summarized as a conspiracy to provide material support to  
25 terrorists. And Count Four says that from at least in or about

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1 early 2016 up to and including on or about May 21, 2016, in the  
2 Southern District of New York and elsewhere, the defendant,  
3 Mr. El Bahnasawy, and others knowingly and intentionally  
4 conspired to provide material support or resources, as defined  
5 in 18, U.S.C., Section 2339A(b) looks like little i in parens,  
6 namely, property services and personnel, including himself, and  
7 to conceal and disguise the nature, location and source and  
8 ownership of material support and resources, knowing and  
9 intending that they were to be used in preparation for, and in  
10 carrying out, a violation of the law, Section 2332a, that I  
11 referred to a minute ago, involving the use of weapons of mass  
12 destruction, and 2332b, which I referred to a minute ago,  
13 relating to acts of terrorism transcending national boundaries  
14 and Section 2332f, bombing a place of public use and public  
15 transportation facilities.

16 The information goes on to say, with respect to Count  
17 Four, that it was a part and object of this conspiracy that the  
18 defendant and others would and did knowingly and intentionally  
19 provide, and attempt to provide, material support or resources,  
20 as defined at 18, United States Code, Section 2339A(b)(1), and  
21 to conceal and disguise the nature, location, source and  
22 ownership of material support and resources knowing and  
23 intending that they were to be used in preparation for, and in  
24 carrying out, a violation of the section relating to use of  
25 weapons of mass destruction and the section of the statute

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1 relating to acts of terrorism transcending national boundaries,  
2 and the section of the statute relating to bombing of places of  
3 public use a public transportation.

4 So, that's Count Four. The government is welcome to  
5 add to that summary if you wish.

6 MR. TURNER: No, thank you, your Honor.

7 THE COURT: How about the defense?

8 MS.. SHROFF: No, thank you.

9 THE COURT: Okay.

10 Count Five: I should have mentioned before, there are  
11 seven counts in total but Count Five is not a conspiracy count,  
12 it's what we call a substantive count or a substantive offense,  
13 and it is the offense of providing material support to  
14 terrorists. It says, in summary, that from at least in or  
15 about early 2016, up to and including in or about May 21, 2016,  
16 Mr. El Bahnasawy did knowingly and intentionally provide  
17 material support or resources and concealed and disguised the  
18 nature, location, source and ownership of material support and  
19 resources, knowing and intending that they were to be used in  
20 preparation for, and in carrying out, a violation of the  
21 section of law I referred to before involving the use of  
22 weapons of mass destruction and the other section involving  
23 acts of terrorism transcending national boundaries and the  
24 section of the law, Section 2332f, relating to bombing of  
25 places of public use and public transportation, which fall

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1 under Title 18.

2 Anybody want to add to the description the summary  
3 description of Count Five?

4 MR. TURNER: No, your Honor.

5 MS. SHROFF: No, thank you.

6 THE COURT: Okay.

7 Count Six is another conspiracy count. It could be  
8 described as conspiracy to provide material support and  
9 resources to designated foreign terrorist organization. Count  
10 Six says that from at least in or about early 2016 up to and  
11 including on or about May 21, 2016, in the Southern District of  
12 New York, Mr. El Bahnasawy, together with others known and  
13 unknown, did knowingly and intentionally conspire to provide  
14 material support or resources to a foreign terrorist  
15 organization, namely, ISIL, I-S-I-L, which is shorthand for  
16 Islamic State of Iraq and the Levant, L-e-v-a-n-t, which  
17 organization has been designated by the Secretary of State as a  
18 foreign terrorist organization since 2004, and is currently  
19 designated as such.

20 With respect to this conspiracy, the information says  
21 that a part and object of the conspiracy was that the defendant  
22 would and did knowingly and intentionally provide, and attempt  
23 to provide, ISIL with material support or resources, knowing  
24 that ISIL was a designated foreign terrorist organization and  
25 that ISIL engages and has engaged in terrorist activity and

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1 also that ISIL engages and has engaged in terrorism. And the  
2 offense occurred, in whole or in part, in the United States and  
3 second the offense occurred in and affecting interstate and  
4 foreign commerce.

5 Before we get to Count Seven, which is the last count  
6 in the information, if counsel wish to add anything to Count  
7 Six, they may.

8 MR. TURNER: No, your Honor.

9 MS. SHROFF: No, thank you.

10 THE COURT: No? Okay.

11 Finally, we come to the last count, Count Seven. This  
12 is not a conspiracy either. This is, again, a substantive  
13 charge, a substantive count, and the offense is providing  
14 material support and resources to a designated foreign  
15 terrorist organization. As contrasted, again, with the  
16 conspiracy to do that, this is the substantive count actually  
17 of doing that.

18 It says that from at least in or about early 2016 up  
19 to and including in or about May 21, 2016, in the Southern  
20 District of New York, Mr. El Bahnasawy did knowingly and  
21 intentionally provide and attempt to provide material support  
22 or resources to a foreign terrorist organization, namely, ISIL.  
23 And ISIL, as we said before, has been designated by the  
24 Secretary of State as a foreign terrorist organization since  
25 2004 and is currently designated as such. And he did so --



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1 that is to say Mr. El Bahnasawy -- knowing that ISIL was a  
2 designated foreign terrorist organization and that ISIL  
3 engages, and has engaged, in terrorist activities and knowing  
4 also that ISIL engages, and has engaged, in terrorism, and also  
5 that the offense occurred, in whole or in part, within the  
6 United States, and the offense occurred in and affected  
7 interstate and foreign commerce.

8 And then the count gives this example: In the to wit  
9 portion of the count, it says, "The defendant participated in  
10 the planning and preparation for terrorist attacks against New  
11 York City for which he caused materials to be shipped in  
12 interstate commerce and for which he traveled from Canada to  
13 the State of New Jersey."

14 So that's Count Seven. If the government wishes to  
15 supplement that summary, they may well do so.

16 MR. TURNER: No, your Honor.

17 THE COURT: How about defense?

18 MS. SHROFF: No, thank you.

19 THE COURT: Okay.

20 So, now, Mr. El Bahnasawy, in order to have a valid  
21 plea, you need to understand what are the potential maximum  
22 sentences that could be imposed against you for these various  
23 seven crimes or counts. Some can be put together because the  
24 maximum is the same for Counts One, Two and Three. Each of  
25 those counts carries a maximum term of imprisonment of life



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1 imprisonment. Do you realize that?

2 THE DEFENDANT: Yes.

3 THE COURT: Each of those three counts carries a  
4 maximum term of supervised release and the maximum term for  
5 each of those counts is lifetime supervised release. Do you  
6 realize that?

7 THE DEFENDANT: Yes.

8 THE COURT: And each of those three counts carries a  
9 maximum fine, which is the greatest of \$250,000 or twice the  
10 gross pecuniary gain derived from the crime or twice the gross  
11 pecuniary loss to persons other than yourself resulting from  
12 the offense. Do you realize that that maximum fine applies to  
13 Counts One, Two and Three?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you realize also that each of those  
16 counts -- one, two and three -- carries along with it a \$100  
17 special assessment?

18 THE DEFENDANT: Yes.

19 THE COURT: Then let's turn to Counts Four and Five.  
20 They have the same maximum penalties, as follows: Count Four  
21 and Five have a maximum term of imprisonment each of 15 years  
22 of imprisonment. Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: And they each have a maximum term of  
25 supervised release, which is lifetime supervision. Do you

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1 realize that?

2 THE DEFENDANT: Yes.

3 THE COURT: And they also have the maximum fine which  
4 is the greatest of \$250,000 or twice the gross pecuniary gain  
5 derived from the offense or twice the gross pecuniary loss to  
6 persons other than yourself as a result of the offense. Do you  
7 realize that?

8 THE DEFENDANT: Yes.

9 THE COURT: And then each of those two counts, Counts  
10 Four and Five, has a \$100 special assessment attached to it.  
11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Then, turning to the last two counts,  
14 Counts Six and Seven, they each have a maximum term of  
15 imprisonment of 20 years. Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: They each have a maximum term of  
18 supervised release which is lifetime. Do you realize that?

19 THE DEFENDANT: Yes.

20 THE COURT: And they each have a maximum fine, again,  
21 which is the greatest of \$250,000 or twice the gross pecuniary  
22 gain derived from the offense or twice the gross pecuniary loss  
23 to persons other than yourself. Do you realize that?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you also realize that Counts Six and

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1 Seven also carry with them each a \$100 special assessment?

2 THE DEFENDANT: Yes.

3 THE COURT: So you realize then, do you, that you  
4 could be facing, you are facing, as maximums lifetime  
5 imprisonment?

6 THE DEFENDANT: Yes.

7 THE COURT: And lifetime supervision?

8 THE DEFENDANT: Yes.

9 THE COURT: And total special assessments of \$700, do  
10 you realize that?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that a felony  
13 adjudication -- which, each one of these seven counts is a  
14 separate felony -- could result in your being deprived of  
15 certain rights? These are actually rights of citizenship -- so  
16 I'm not sure they apply to you anyway because you're a citizen  
17 of Canada -- that is, the right to vote, the right to hold  
18 public office, the right to serve on a jury, and the right to  
19 possess a firearm.

20 I don't think those rights adhere to non-U.S.  
21 citizens. Does anybody know the answer to that? I think they  
22 apply to American citizens, right, and not Canadians?

23 MR. TURNER: That would also be our understanding,  
24 your Honor, and in an abundance of caution, we do think it  
25 probably makes sense to go through those anyway.

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1 THE COURT: Okay.

2 Then I'm asking that question, Mr. El Bahnasawy: You  
3 realize that, to the extent you have these rights, they would  
4 be lost as a result of your being convicted by pleading guilty  
5 to any of these and certainly to all of these felony counts  
6 that I have summarized? Do you realize that?

7 THE DEFENDANT: Yes.

8 THE COURT: Is this a case that involves restitution  
9 in any way?

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15 THE COURT: Then I'm going to ask you,  
16 Mr. El Bahnasawy: Do you understand that I may order you to  
17 pay restitution to any victims at the time of sentencing? You  
18 realize that?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand, further, that there is  
21 no parole in the federal system, which is where we are? Unlike  
22 the state system, which has in some instances a parole feature,  
23 there is no parole from the federal system, which is where we  
24 are. Do you realize that?

25 MS. SHROFF: Your Honor, may I just have a second?

THE COURT: Yes.

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1 (Pause)

2 THE DEFENDANT: Yes, I understand.

3 THE COURT: You understand that? Okay.

4 I mentioned this a few minutes ago very briefly but  
5 the concept here is that in addition to incarceration, you  
6 could be subject to some period of supervised release following  
7 incarceration. Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you realize that with respect to  
10 supervised release, there are undoubtedly, if there were such a  
11 regime of supervision put in place, there would be terms and  
12 conditions attached and that if you failed to comply with those  
13 terms and conditions, you could, following a subsequent  
14 hearing, be returned to prison? Do you realize that?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you realize that such a hearing would  
17 be without a jury, just before me as the sentencing judge? Do  
18 you realize that?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that, being a non-U.S.  
21 citizen, you may be subject to deportation following your  
22 conviction here?

23 THE DEFENDANT: Yeah, I realize.

24 THE COURT: Are you currently serving any other  
25 sentences, either in state courts, from state courts, or from

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1 federal courts?

2 THE DEFENDANT: No.

3 THE COURT: Being prosecuted in any other courts for  
4 any crime?

5 THE DEFENDANT: No.

6 THE COURT: Let me go over the factors that I will  
7 consider at sentencing under a statute that's referred to as  
8 18, United States Code, Section 3553(a). That is to say that  
9 in my endeavor to come up with a fair and reasonable sentence,  
10 I look at that and evaluate the factors and objectives of that  
11 statute, and they include the following: The nature and the  
12 circumstances of the offense or crimes; and your history and  
13 characteristics; and also the need for such a sentence imposed  
14 to reflect the seriousness of the crimes; to promote respect  
15 for the law; to provide a just punishment for these crimes; to  
16 afford adequate deterrence to criminal conduct; to protect the  
17 public from further crimes; to provide you with needed  
18 educational or vocational training or medical care or other  
19 correctional treatment in the most effective manner.

20 In doing all that, I will look at the kinds of  
21 sentences available, the kinds of sentence and the sentencing  
22 range established in the United States Sentencing Guidelines;  
23 I'll look at any policy statements issued by the United States  
24 Sentencing Commission; I'll seek to avoid unwarranted sentence  
25 disparities among similarly situated defendants; and, lastly, I

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1 will provide, as appropriate, for restitution.

2 Ms. Shroff, have you had discussions, preliminary as  
3 they may have been, with Mr. El Bahnasawy about sentencing and  
4 about how one goes about sentencing in federal court?

5 MS. SHROFF: I have, your Honor.

6 THE COURT: So do you understand, Mr. El Bahnasawy,  
7 that these factors and objectives are what I will be involved  
8 in considering in determining what is a fair and reasonable  
9 sentence in your case?

10 THE DEFENDANT: Yes.

11 THE COURT: So, do you realize also, Mr. El Bahnasawy,  
12 that even if you don't like the sentence that I impose, you  
13 would not be able for that reason alone to withdraw today's  
14 guilty plea? Do you realize that?

15 THE DEFENDANT: Yes.

16 THE COURT: In the plea agreement, there is a  
17 sentence, if not exactly this but to the effect that the  
18 sentence to be imposed upon the defendant, Mr. El Bahnasawy, is  
19 within the sole discretion of the Court.

20 Counsel first, do you agree with that statement?

21 MR. TURNER: Yes, we do, your Honor.

22 THE COURT: And defense counsel?

23 MS. SHROFF: Yes, your Honor.

24 THE COURT: And, Mr. El Bahnasawy, do you agree with  
25 that as well?



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1 THE DEFENDANT: Yes.

2 THE COURT: Okay.

3 Then the bottom line, so to speak, Mr. El Bahnasawy,  
4 do you think you fully understand the consequences of pleading  
5 guilty here today?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: Has anybody threatened you or forced you  
8 in any way to plead guilty?

9 THE DEFENDANT: No.

10 THE COURT: Including your attorneys?

11 THE DEFENDANT: Yes, no one.

12 THE COURT: Including them?

13 THE DEFENDANT: Yes.

14 THE COURT: So they did not threaten you or force you  
15 to plead guilty; is that what you're saying?

16 THE DEFENDANT: Yes.

17 THE COURT: I referred before to the plea agreement.  
18 I want to just make sure that you read it thoroughly and  
19 carefully or at least considered it thoroughly and carefully  
20 with your attorneys before you signed it. The plea agreement  
21 is dated October 11th, 2016, on the front page, even though I  
22 think it was signed yesterday, October 12th. You went over  
23 that carefully with your counsel before you signed it?

24 THE DEFENDANT: Pardon?

25 THE COURT: I said, did you go over that plea



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1 agreement carefully with your counsel before you signed it?

2 THE DEFENDANT: Yes, I did.

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THE COURT:

I want to make sure you understand that your guilty plea and conviction make it very likely that you will be deported from the United States and that that deportation is likely and presumed to be mandatory, and that, at a minimum, you are at the risk of being deported or suffering other adverse immigration consequences as a result of your plea and your conviction. Do you realize that?

THE DEFENDANT: Yes.

THE COURT: Has anybody made any promise or inducement that is causing you to plead guilty here today?

THE DEFENDANT: No.

THE COURT: Has anyone made a promise to you as to what your sentence in this matter will be?

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1 THE DEFENDANT: No.

2 THE COURT: Including any attorneys?

3 THE DEFENDANT: No.

4 THE COURT: Now we'll turn to the government and ask  
5 what, in summary, the government would be able to prove, what  
6 evidence, et cetera, if the case were to have gone to trial  
7 instead of being resolved in this plea. This is where you may  
8 wish to discuss the elements of the various counts that I  
9 described.

10 MR. TURNER: Yes, your Honor.

11 In light of the fact that all of the counts in the  
12 information pertain to a continuing course of conduct, if it's  
13 okay with the Court, I'll set forth the elements of all of the  
14 counts first and then state what the government's proof would  
15 show if the matter went to trial.

16 THE COURT: That would be fine.

17 MR. TURNER: Your Honor, Count One of the information  
18 charges a conspiracy to use a weapon of mass destruction in  
19 violation of 18, U.S.C., Section 2332a. The elements of that  
20 offense are first that the defendant knowingly conspired to use  
21 a weapon of mass destruction without lawful authority; second,  
22 that the intended use of the weapon of mass destruction was  
23 against persons or property within the United States; and;  
24 third, that at least one of the jurisdictional requirements set  
25 forth in subsection (a)(2) of Section 2332a is met, which

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1 include any of the following: The mail or any facility of  
2 interstate or foreign commerce was used in furtherance of the  
3 offense; the targeted property within the United States is used  
4 in interstate or foreign commerce or in an activity that  
5 affects interstate or foreign commerce; any perpetrator  
6 traveled in, or caused another to travel in, interstate or  
7 foreign commerce in furtherance of the offense; or that the  
8 offense affected or the results of the offense would have  
9 affected interstate or foreign commerce.

10 The government notes that the term "weapon of mass  
11 destruction" is defined, in subsection (c) of Section 2332a, to  
12 include any destructive device as that term is defined in 18,  
13 U.S.C., Section 921(a)(4), which defines destructive device to  
14 include any explosive or incendiary bomb or device similar.

15 Your Honor, with respect to Count One and each of the  
16 conspiracy counts Charged in the information, the elements of a  
17 conspiracy are: First, the existence of an agreement between  
18 two or more persons to commit the charged offense as alleged in  
19 the information; and, second, that the defendant knowingly and  
20 willfully became a member of the charged conspiracy.

21 Count Two charges a conspiracy to commit acts of  
22 terrorism transcending national boundaries in violation of 18,  
23 U.S.C., Section 2332b. The elements of that offense are:  
24 First, that the defendant knowingly conspired to kill, maim,  
25 commit an assault resulting in serious bodily injury or assault

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1 with a dangerous weapon persons within the United States or to  
2 create a substantial risk of serious bodily injury to another  
3 person by destroying or damaging a structure, conveyance or  
4 other real or personal property in the United States; second,  
5 that the conduct involved in the offense transcended national  
6 boundaries; third, that the act in question, that is, the  
7 object of the conspiracy, violated the laws of any state or of  
8 the United States; and, fourth, that at least one of the  
9 jurisdictional requirements set forth in subsection (b) of  
10 Section 2332b is met, which include any of the following: The  
11 mail or any facility of interstate or foreign commerce was used  
12 in furtherance of the offense or that the offense would have  
13 obstructed, delayed or affected interstate or foreign commerce  
14 if the offense had been consummated.

15 Count Three charges a conspiracy to bomb a place of  
16 public use and public transportation system in violation of 18,  
17 U.S.C., Section 2332f. The elements of that offense are:  
18 First, that the defendant knowingly conspired to deliver,  
19 place, discharge or detonate an explosive or other lethal  
20 device in, into or against a place of public use or a public  
21 transportation system; second, that the defendant did so with  
22 the intent to cause death or serious bodily injury or to cause  
23 extensive destruction of the place or system where such  
24 destruction was likely to result in major economic loss; and,  
25 third, that at least one of the jurisdictional requirements set

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1     forth in subsection (b) of Section 2332f is met, which include  
2     either of the following: That the offense took place in the  
3     United States and a perpetrator is a national of another state  
4     or that the offense took place outside the United States and a  
5     perpetrator is a national of the United States or a perpetrator  
6     is found in the United States.

7             Count Four of the information charges the defendant  
8     with conspiring to provide material support and resources to  
9     terrorists in violation of 18, U.S.C., Section 2339A.

10            Count Five, your Honor, charges a substantive  
11     violation of that statute, that is, providing and attempting to  
12     provide material support and resources to terrorists in  
13     violation of that statute, Section 2339A.

14            The elements of the charged violations of Section  
15     2339A are: First, that the defendant provided or attempted to  
16     provide material support or resources and, in the case of Count  
17     Four, that he conspired to do so; and the second element is  
18     that the defendant knew or intended that the support or  
19     resources were to be used in preparation for, or in carrying  
20     out, a violation of any of the statutes that are listed in  
21     subsection (a) of Section 2339A, which include each of the  
22     statutes that is charged in Counts One through Three of the  
23     information, namely, 18, U.S.C., Sections 2332a and 2332b and  
24     2332.

25            Also, your Honor, the term "material support or

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1 resources" is defined in subsection (b) of Section 2339A to  
2 include property, services and personnel, which may include the  
3 defendant himself.

4 Count Six of the information charges the defendant  
5 with conspiring to provide material support and resources to a  
6 foreign terrorist organization, namely, ISIL, the Islamic State  
7 of Iraq and the Levant, in violation of 18, U.S.C., Section  
8 2339B. And Count Seven charges a substantive violation of that  
9 statute, that is, providing, and attempting to provide,  
10 material support and resources to ISIL.

11 The elements of the charged violations of Section  
12 2339B are: First, that the defendant provided, or attempted to  
13 provide, material support or resources, as that term is defined  
14 in Section 2339A, to a designated foreign terrorist  
15 organization, and, in the case of Count Six, that he conspired  
16 to do so; the second element is that the defendant knew that  
17 the organization had been designated as a foreign terrorist  
18 organization or that the organization had engaged or was  
19 engaging in terrorist activity or terrorism; and, third, that  
20 at least one of the jurisdictional requirements set forth in  
21 subsection (d) of Section 2339B is met, which include either of  
22 the following: That the offense occurred, in whole or in part,  
23 in the United States or that the offense occurred in and  
24 affected interstate and foreign commerce.

25 Finally, your Honor, with respect to venue for each of

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1 the counts charged in the information, the government would  
2 need to establish by a preponderance of the evidence that venue  
3 in the Southern District of New York is appropriate.

4 THE COURT: And the time frame, I think, that you're  
5 referring to is the one that I did also, that is to say, early  
6 2016 to on or about May 21, 2016?

7 MR. TURNER: That's correct, your Honor, in or about  
8 early 2016 to the date of the defendant's arrest, which was  
9 May 21st of 2016.

10 THE COURT: Thank you.

11 MR. TURNER: Your Honor, I can proceed to the proof  
12 if --

13 THE COURT: Sure.

14 MR. TURNER: Your Honor, the government's proof in  
15 this case includes, among other evidence, electronic  
16 communications, including communications between the defendant  
17 and an undercover law enforcement officer; or UC; documentary  
18 and physical evidence, including records and materials  
19 evidencing the defendant's purchase and shipment of bomb-making  
20 materials; and law enforcement and other witness testimony.

21 At trial, the government's evidence would prove beyond  
22 a reasonable doubt, among other things, that between in or  
23 about early 2016 and the defendant's arrest, on May 21st of  
24 2016, the defendant conspired to, and did, provide material  
25 support to ISIL, which has been a designated foreign terrorist



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1 organization since 2004.

2 In particular, the evidence would show that the  
3 defendant, a Canadian citizen, participated in a conspiracy to  
4 carry out terrorist attacks in New York City in support of  
5 ISIL. The objectives of the plot included detonating explosive  
6 devices in the New York City Subway system and Times Square.  
7 The evidence would show that the defendant purchased materials  
8 on the Internet for the purpose of constructing such explosive  
9 devices and caused such materials to be shipped interstate.  
10 The evidence would also show that the defendant, while residing  
11 in Canada, engaged in electronic communications using a  
12 cellular telephone and the Internet with multiple  
13 coconspirators and with the UC in furtherance of the plot. One  
14 of those coconspirators with whom the defendant communicated  
15 was a U.S. citizen residing in Pakistan.

16 In the course of the conspiracy, the defendant  
17 communicated with the UC in furtherance of the plot, knowing  
18 that the UC was located in Manhattan, New York.

19 On May 21, 2016, the defendant traveled from Canada  
20 into the United States for the purpose of carrying out the  
21 planned attacks in New York City.

22 Finally, your Honor, the evidence would show that the  
23 defendant acted knowingly and intentionally and that he knew  
24 what he was doing was unlawful.

25 THE COURT: Thank you.

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1 MS. SHROFF: Your Honor, may I just have a second with  
2 the government?

3 THE COURT: Yes, sure.

4 (Pause)

5 MS. SHROFF: Thank you, your Honor. I appreciate it.

6 THE COURT: Now I'm going to turn back to  
7 Mr. El Bahnasawy and ask him, having listened to what the  
8 government had to say about what it thinks it would be able to  
9 prove if the case were to go to trial, and in light of the  
10 series of questions that I have asked him and the answers that  
11 he's given: Do you, Mr. El Bahnasawy, at this time wish to  
12 plead guilty or not guilty to these seven crimes set forth in  
13 the superseding information?

14 THE DEFENDANT: I wish to plead guilty.

15 THE COURT: So, then would you tell me in your own  
16 words -- and if you could speak up so the court reporter can  
17 surely hear you -- what it is that makes you believe that you  
18 are guilty of the seven offenses set forth in the superseding  
19 information.

20 THE DEFENDANT: In the spring of 2016, I agreed with  
21 others to carry out an attack in Times Square, to support ISIL;  
22 specifically, we agreed to try to set off a bomb in Times  
23 Square. I used the Internet and sent materials through the  
24 mail in furtherance of the conspiracy, and I also traveled from  
25 Canada to the United States.

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1 THE COURT: Okay, so you said the conspiracy, and  
2 there are seven crimes set forth in the information. I'm not  
3 sure that all of those are covered by that statement.

4 What do you think, counsel for the government?

5 MR. TURNER: Your Honor, one question we would  
6 respectfully ask the Court to pose is whether an additional  
7 target of the attacks was the New York City Subway system.

8 THE COURT: Okay. Let me come to that in a minute.  
9 Do you think, though, that that statement covers all seven  
10 offenses set forth in the superseding information, with the  
11 addition of the New York City Subway system?

12 MR. TURNER: We do, your Honor. And we're also not  
13 suggesting that the subway system is necessarily necessary to  
14 be sufficient. I will note that in setting forth the  
15 jurisdictional requirements, obviously, only one of those is  
16 necessary for each of the seven counts but, otherwise, we do  
17 believe that it's sufficient, your Honor.

18 THE COURT: So you believe it covers all of the  
19 conspiracies alleged as well as the substantive crimes?

20 MR. TURNER: We do, your Honor.

21 THE COURT: So, then let me pose that question to you,  
22 Mr. El Bahnasawy: Was one of the targets of your activity,  
23 intended targets, the New York City Subway system?

24 THE DEFENDANT: Yes.

25 THE COURT: Ms. Shroff and Mr. El Bahnasawy, could I

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1 hear that statement of yours once again, just to make sure I  
2 understand it all?

3 THE DEFENDANT: All right. In the spring of 2016, I  
4 agreed with others to carry out an attack in Times Square, to  
5 support ISIL; specifically, we agreed to try and set off a bomb  
6 in Times Square. I used the Internet and sent materials  
7 through the mail in furtherance of the conspiracy, and I also  
8 traveled from Canada to the United States.

9 THE COURT: Okay.

10 Did you know that ISIL, the United States, was a  
11 foreign terrorist organization?

12 THE DEFENDANT: Yes, I knew that.

13 THE COURT: That satisfies me, if it does the  
14 government, for a plea covering the seven counts in the  
15 offense.

16 MR. TURNER: Your Honor, we would ask the Court to  
17 inquire as to whether the defendant understood that what he was  
18 doing was wrong and unlawful at the time that he was doing it.

19 THE COURT: Okay, that's a fair question.

20 Mr. El Bahnasawy, did you understand that what you  
21 were doing and attempting to do was wrong and unlawful, at the  
22 time you were attempting to commit these seven crimes?

23 THE DEFENDANT: Yes, I did.

24 THE COURT: Anything else?

25 MR. TURNER: Nothing from the government, your Honor.

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1 THE COURT: Okay.

2 Mr. El Bahnasawy, are you pleading guilty to these  
3 seven crimes charged because you are in fact guilty of each of  
4 them?

5 THE DEFENDANT: Yes.

6 THE COURT: And does the government counsel agree that  
7 there is a sufficient factual predicate for this guilty plea?

8 MR. TURNER: Yes, your Honor.

9 THE COURT: And how about defense counsel?

10 MS. SHROFF: No, your Honor. We have discussed the  
11 matter and the answer would be no.\*

12 THE COURT: You believe that there is a sufficient  
13 factual predicate for these guilty pleas?

14 MS. SHROFF: There's a sufficient factual basis, your  
15 Honor, and we have discussed the defenses that would possibly  
16 play in, and to that the answer is no.

17 THE COURT: I agree also. It is the finding of this  
18 Court, in U.S. v. Abdulrahman El Bahnasawy, that  
19 Mr. El Bahnasawy is fully competent and capable of entering an  
20 informed plea, that he is aware of the nature of the charges  
21 against him and the consequences of entering today's guilty  
22 plea, and that the plea of guilty is a knowing and voluntary  
23 plea supported by an independent basis in fact, supporting each  
24 of the essential elements of the seven offenses.

25 The plea is therefore accepted and, Mr. El Bahnasawy

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\* Public Defenders advised the Court that Ms. Shroff initially misheard the Court's question.

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1 is now adjudged guilty of these seven offenses, or crimes, set  
2 forth in the superseding information.

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4  
5 Did counsel, starting with the government, wish to add  
6 anything to today's plea proceeding?

7 MR. TURNER: A few quick items, your Honor:

8 First,

9 the defendant has agreed to admit  
10 the forfeiture allegations that are set forth in the  
11 information and I'm not sure that we have covered that, your  
12 Honor. So we would ask that the defendant acknowledge the  
13 forfeiture and admit the forfeiture allegations.

14 THE COURT: Okay. So where in the plea agreement  
15 exactly?

16 MR. TURNER: This is the second full paragraph on page  
17 3, and the forfeiture allegations are set forth at the last  
18 page of the superseding information.

19 THE COURT: If you could take a look at that,  
20 Mr. El Bahnasawy, with counsel, the government is talking about  
21 the paragraph that begins, "The defendant further admits the  
22 forfeiture allegations with respect to Counts One through Seven  
23 of the information and agrees to forfeit to the United States,  
24 pursuant to Title 18, United States Code," and other sections  
25 of the U.S. Code, "all right, title and interest in assets,

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1 foreign and domestic," et cetera. Could you just go over that  
2 paragraph and let me know if you understand its contents and if  
3 you agree to this forfeiture provision.

4 THE DEFENDANT: Yes, I understand and agree.

5 THE COURT: Did you have any other questions?

6 MR. TURNER: Not with respect to the plea, your Honor.

7 THE COURT: Okay.

8 MR. TURNER: First, your Honor, in terms of sealing,  
9 the Court's sealing order does remain in effect, on consent.  
10 And in light of that order and pursuant to that order, we would  
11 ask that the transcript of today's proceeding as well as the  
12 superseding information and any associated docket entries be  
13 maintained under seal and that docketing be delayed.

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THE COURT: let me ask the  
government if there's anything else you wish to add to today's  
proceeding?

MR. TURNER: No, your Honor.

THE COURT: How about the defense?

MS. SHROFF: No, your Honor.

THE COURT: Is the government satisfied with today's  
plea allocution to the seven crimes set forth in the  
superseding information?

MR. TURNER: Yes, your Honor, we are.

THE COURT: Is the defense also?

MS. SHROFF: Yes, your Honor.



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THE COURT: Mr. Kaminsky, you are?

MR. KAMINSKY: Yes, your Honor.

THE COURT: Okay. Anything else?

MS. SHROFF: No, thank you, your Honor.

MR. TURNER: No, your Honor. Thank you.

THE COURT: Nice to see you all. Thanks.

MR. TURNER: Thank you, Judge.

\* \* \*